

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
) NO. 4:13 CR 161 ERW
v.)
)
WILLIAM F. VATTEROTT,)
)
Defendant.)

GOVERNMENT'S MOTION FOR DETENTION AFTER SENTENCING

Comes now the United States of America, by and through its attorneys, Richard G. Callahan, United States Attorney for the Eastern District of Missouri, and Robert F. Livergood, Assistant United States Attorney for said District, and moves this Court to detain defendant after sentencing.

The Government asserts:

1. Defendant is charged with one count of possession of child pornography in violation of Title 18, U.S.C. § 2252A(a)(5)(B).
2. A plea hearing is set for August 30, 2013.
3. Title 18, United States Code, Section 3143(a)(2) states:

The judicial officer shall order that a person found guilty of an offense in a case described in **subparagraph (A)**, (B), or (C) of **subsection (f)(1) of section 3142** and is awaiting imposition or execution of sentence be detained unless—

- (A) (i) the judicial officer finds there is a substantial likelihood that a motion for acquittal or new trial will be granted; or
- (ii) an attorney for the Government has recommended that no sentence of imprisonment be imposed on the person; **and**

- (B) the judicial officer finds by clear and convincing evidence that the person is not likely to flee or pose a danger to any other person or the community.
4. Title 18, United States Code, Section 3142 (f)(1)(A) lists "crime of violence."
 5. Title 18, United States Code, Section 3156(a)(4)(C) states that "crime of violence means" "any felony under chapter . . . 110 [18 U.S.C.A Section 2251 et seq.]. . . ." Section 2252A(a)(5)(B) is within chapter 110.
 6. If the defendant pleads guilty to possession of child pornography, defendant will not fit into any exception that would permit him to remain on bond because the Government is not recommending probation.
 7. No exceptional reasons exist as why defendant should be released. Title 18, United States Code, Section 3245(c), states, in part, "[a] person subject to detention pursuant to section 3143(a)(2) . . . , and who meets the conditions of release set forth in section 3143(a)(1) or (b)(1), may be ordered released, under appropriate conditions, by the judicial officer, if it is clearly shown that there are **exceptional reasons** why such person's detention would not be appropriate." Exceptional reasons are "clearly out of the ordinary, uncommon, or rare when compared to every other defendant convicted of offenses involving the sexual exploitation of children, all of whom are subject to mandatory detention under § 3143(a)(2)." United States v. Brown, 368 F.3d 992, 993 (8th Cir. 2008) (remaining "in a treatment program for depression pending his assignment to a federal correctional institution" and being "subjected to violence if detained in a local jail while awaiting assignment to a federal correctional institution" were not exceptional reasons.); see also United States v. Larue, 478 F.3d

924, 925 (8th Cir. 2007) (that he "complied with the terms of his pretrial release, that he had no criminal record, that he was taking mental-health medication, that he had ongoing employment, and that the nature of his offense might cause him to be subjected to violence while in jail or other detention facility" were not exceptional reasons.); and United States v. Little, 485 F.3d 1210 (8th Cir. 2007) ("the fact that [defendant] cooperated in the investigation, voluntarily gave incriminating statements, consented to the seizure of his computer, and his full compliance with pretrial release conditions[,] and his timely appearance at all court proceedings" were not exceptional reasons.).

WHEREFORE, the Government respectfully requests that the Court order the defendant to be detained after sentencing.

Respectfully submitted:

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CERTIFICATE OF SERVICE

I hereby certify that on August 23, 2013, the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon the following:

Charles H. Billings
Attorney for the Defendant
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s/Robert F. Livergood
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